

Sexual Entertainment Venues

Portfolio:	Community
Wards Affected:	All

Purpose

To consider adopting Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and the amendments created by Section 27 of the Policing and Crime Act 2009

Background

1. On the 1st January 1984 the Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 which controls and licences 'sex establishments' within the Borough. Sex establishments are defined as 'sex cinema' and 'sex shop'.
2. On the 11th February 2003 the Licensing Committee adopted a Sex Establishments Licensing Policy which determined that the appropriate number of premises in the Borough was nil.
3. There are currently no licensed sex establishments within the Borough.

Key Issues

4. The Licensing Committee were briefed on the 15th September 2010 that as of the 6th April 2010, Section 27 of the Policing and Crime Act 2009 extended the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by inserting the term 'sexual entertainment venue' into paragraph 2 of the schedule. 'Sexual entertainment venue' means any premises at which relevant entertainment is provided to a live audience for financial gain of the organiser or the entertainer. Relevant entertainment is defined as "*any live performance or display of nudity which is of such a nature that, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.*"
5. The effect is to take activities such as lap dancing and striptease outside the provisions of the Licensing Act 2003 and into the licensing regime under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
6. The aim is to bring the licensing of lap-dancing premises in line with other "sex establishments" such as "sex shops" and "sex cinemas" and to recognise that local people have legitimate concerns about where such premises are located.
7. If the amended provisions are adopted, the Licensing Authority would be able to apply prescribed standard conditions on grounds not covered by the Licensing Act 2003 e.g. location, hours, display adverts, visibility of interior. The Authority would also be able to produce a Policy setting out how they will consider applications for sex establishments licences.
8. If the schedule was not adopted the Council would have no legal control over Sexual Entertainment Venues. It is felt that failing to adopt the amended provisions and maintain the status quo would allow prospective sexual entertainment venues to take advantage of a perceived loophole in the Licensing Act 2003.

Proposal

9. The Council passes a resolution under Section 2 to adopt Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982 in its new form.
10. The Council adopts a Sexual Establishments Policy. The proposed timetable:
 - Draft policy to Licensing Committee 9th March 2011
 - Consult 1st April 2011 to 1st July 2011
 - Finalised policy to Licensing Committee September 2011
 - Policy adopted by Full Council October 2011

Resource Implications

11. The process of adopting the legislation and producing and consulting on the new policy will be conducted within existing resources with Environmental Health.
12. There will be advertising costs attached to the public notice which is required as part of the process of adopting the legislation.

Recommendation

13. That the Licensing Committee RECOMMEND TO FULL COUNCIL the adoption of the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which has been amended by virtue of Section 27 of the Policing and Crime Act 2009 with effect from 1st April 2011 and to delegate authority to the Senior Environmental Health Officer to carry out the necessary advertising requirements to comply with Section 2 of the Local Government (Miscellaneous Provisions) Act 1982, as amended
14. That the Licensing Committee approves the timetable set out in paragraph 11 of this report.

Background Papers:

1. Section 27 of the Policing and Crime Act 2009;
2. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982
3. Guidance issued by the Home Office – Sexual Entertainment Venues

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